

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2001-006962

10/22/2003

HONORABLE GEORGE H. FOSTER, JR.

CLERK OF THE COURT  
V. Figueroa  
Deputy

IN RE THE MATTER OF  
ERIC BEARD

FILED: 11/17/2003

JAMES D R REDPATH

AND

CORINA WHITMIRE

CORINA WHITMIRE  
17017 N 12 ST  
APT NO 1111  
PHOENIX AZ 85022

DANIELLE J MALODY  
EXPEDITED SERVICES-CCC

MINUTE ENTRY

10:57 a.m. This is the time set for Emergency Hearing regarding Temporary Orders. Petitioner is present with above-named counsel. Respondent is present appearing on her own behalf.

A recording of this proceeding is made by CD recording utilizing "For The Record" (FTR) in lieu of a court reporter.

Eric Beard is sworn, takes the stand and testifies.

Petitioner's exhibit 1 is marked for identification and received in evidence.

Respondent's exhibit 2 is marked for identification and received in evidence.

Derrick Land is sworn, takes the stand, testifies and is excused.

Mother presents statements to the Court and answers the Court's questions.

Corina Whitmire is sworn and testifies.

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Based upon the testimony presented,

**IT IS ORDERED** taking this matter under advisement.

In the meantime,

**IT IS ORDERED** affirming the Court's previous orders.

11:58 a.m. Matter concludes.

**Later:**

The Court took under advisement the matter of the Emergency Petition to Modify Custody filed by the Petitioner. The Court has considered the testimony of the witnesses in this matter.

**THE COURT FINDS** as follows:

- The parties are the parents of Jaelen Beard.
- Respondent is the Mother of two other children, Daniel and David Whitmire.
- Petitioner alleges that Jaelen told him that David Whitmire bit Jaelen in the area of his groin. Jaelen also alleged told Petitioner and a friend, Derrick Land, that a boy bit him and mimicked that David kissed him and fondled his genitals.
- The evidence does not show beyond a reasonable doubt that Jaelen has been injured by these alleged acts. However, the behavior of this 2.5 year old are significant such that further investigation of the living situation is necessary.
- Petitioner and Respondent each agree that the child, David, was severely shaken as an infant and is mildly mentally retarded.
- The testimony further shows that there is a history of incidents involving sexual acting out among the children. On at least one other occasion Mother took Daniel and David to Child Help to investigate such an incident. The latest trip to Child Help on or about October 10, 2003 with Jaelen by Father suggests there may be a pattern of behavior that should be addressed.
- The medical records and the police records involving these incidents are important in determining the proper parenting arrangement for these parties. Because of the adversarial nature of these proceedings the Court has not been provided with the full

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picture of the history of this family, although it is noted by the extensive file that Petitioner and Respondent have had an acrimonious relationship for quite some time.

**IT IS ORDERED** appointing a Guardian Ad Litem in this matter to investigate the living arrangement for the child Jaelen Beard to determine whether either party is properly able to parent the child and in addition to investigate the allegation of abuse or neglect at the hands of either party and/or the half siblings.

**IT IS FURTHER ORDERED,**

Pending further report and review of this matter, Petitioner shall have physical custody of the child Jaelen. Respondent shall have reasonable, yet under the circumstances, appropriate parenting time with the child.

Respondent shall have parenting time up to three visits during the week for three (3) hours each. However, said visits shall be supervised. Respondent shall also have up to six (6) hours of parenting time every Saturday and on alternate Sundays. Overnight visits with Respondent shall not be allowed until the Court is satisfied that the child is not in significant danger from his half siblings. Because of the history of acrimony between the parties it is not feasible that Petitioner supervise these visits. Supervision and transportation, to the extent the latter proves to be a problem for Respondent, shall be arranged through Expedited Services. The weekend visitation shall start the visitation under this order and the first visit shall take place this Saturday.

**IT IS FURTHER ORDERED** that the parties shall make the earliest possible appointment with the Family Court Advisor to address these issues but in any event within 45 days from this date. Given the age of the child, Jaelen, and the nature of the claims, the Family Court Advisor shall make recommendations to the Court at the earliest possible time regarding the appropriate protocol to investigate the allegations by Petitioner and to initiate counseling for the child as the FCA believes to be necessary or appropriate. Further, the recommendations should include any appropriate suggested intervention in Respondent's household for the assessment of the half siblings for counseling or other services necessary to address the current issues.

**IT IS FURTHER ORDERED** setting this matter for a **Review Hearing on December 19, 2003 at 3:00 p.m. (Time allotted: 1 Hour)** in this division.

Pursuant to the ruling entered, and there being no further need to retain the exhibits not offered in evidence in the custody of the Clerk of the Court,

**IT IS ORDERED** that the Clerk permanently release all exhibits not offered in evidence to the counsel/party causing them to be marked, or to their written designee. Counsel/party shall have the right to refile relevant exhibits as needed in support of any appeal. Refiled exhibits

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must be accompanied by a Notice of Refiling Exhibits and presented to the Exhibits Room of the Clerk's Office. The Court's exhibit tag must remain intact on all refiled exhibits.

**IT IS FURTHER ORDERED** that counsel/party or written designee take immediate possession of all exhibits referenced above.

ISSUED: Exhibit Release Form

FILED: Exhibit Worksheet and Trial Worksheet.

/s/ HONORABLE GEORGE H. FOSTER, JR.

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JUDICIAL OFFICER OF THE SUPERIOR COURT